

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

BROCK VINSON,)
)
Plaintiff,)
)
v.) Case No. CIV-22-00524-JD
)
STATE FARM FIRE AND)
CASUALTY COMPANY,)
)
Defendant.)

ORDER

Before the Court is Defendant State Farm Fire and Casualty Company’s (“State Farm”) Motion to Dismiss (“Motion”) [Doc. No. 4]. State Farm removed this action from state court. [Doc. No. 1].¹ Plaintiff Brock Vinson asserts claims against State Farm for breach of contract, bad faith, and negligence. [Doc. No. 1-2]. The Motion seeks dismissal of Plaintiff’s complaint under Federal Rule of Civil Procedure 12(b)(6) based on the one-year contractual limitations period in the insurance policy and based on Oklahoma law not recognizing a negligence claim by an insured against his insurer.²

Without expressing any view on the merits of the Motion, the Court reminds Plaintiff of his opportunity to cure any purported pleading defects by filing an amended

¹ Once removed, the Federal Rules of Civil Procedure apply. Fed. R. Civ. P. 81(c)(1).

² For this latter proposition, State Farm cites several cases. *See* Motion at 7–8 (collecting cases).

complaint in accordance with Federal Rule of Civil Procedure 15.³ Amendment may include, for example, dismissal of certain claims or adding additional factual allegations in support of his claims now that the case is in federal court and subject to federal pleading standards. If Plaintiff timely files an amended complaint, the Court will deny the Motion as moot. If Plaintiff does not timely file an amended complaint, Plaintiff may file a response to the Motion, and the Court will decide the Motion.⁴

Prior to filing either a response to the Motion or an amended complaint, the Court **ORDERS** counsel for Plaintiff to initiate a good faith conference with counsel for the Defendant regarding the issues raised in the Motion. Plaintiff's response, if filed, shall include a certificate of conference advising the Court of the date of the conference and summarizing all matters that have been resolved by agreement.

IT IS SO ORDERED this 5th day of July 2022.



JODI W. DISHMAN
UNITED STATES DISTRICT JUDGE

³ The Court has inherent authority to manage its cases “so as to achieve the orderly and expeditious disposition of cases.” *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962); *see also* Fed. R. Civ. P. 1.

⁴ Of course, should Plaintiff determine the action should be dismissed, he shall promptly file a notice of voluntary dismissal under Rule 41(a)(1)(A)(i) without requiring the use of court resources to decide the Motion.